

SENATE RECORD VOTE ANALYSIS

105th Congress
2nd Session

Vote No. 246

July 30, 1998, 2:05 p.m.
Page S-9357 Temp. Record

TREASURY APPROPRIATIONS/FEC Staff Objectivity

SUBJECT: Treasury, Postal Service, and General Government Appropriations Bill for fiscal year 1999 . . . S. 2312.
Glenn motion to table the McConnell amendment No. 3379.

ACTION: MOTION TO TABLE FAILED, 45-54

SYNOPSIS: As reported, S. 2312, the Treasury, Postal Service, and General Government Appropriations Bill for fiscal year 1999, will provide \$29.924 billion in new budget authority (BA) for the Department of the Treasury, Postal Service, Executive Office of the President, and various independent agencies. This amount is \$4.598 billion more than provided in fiscal year (FY) 1998, and is \$3.095 billion more than requested. The large increase in funding is due to the addition of \$3.270 billion in contingent emergency funding to address the year 2000 (Y2K) computer date change conversion problem.

The McConnell amendment would limit the terms of the staff director and the general counsel to the Federal Election Commission (FEC) to 4 years. Also, it would require an affirmative vote of at least 4 of the 6 FEC commissioners to appoint the staff director and the general counsel of the FEC. No limits would be placed on the number of times an individual could be appointed to either post. (The FEC, by law, has 3 Republican and 3 Democrat commissioners. Commissioners serve for 6-year terms.)

Debate was limited by unanimous consent. After debate, Senator Glenn moved to table the McConnell amendment. Generally, those favoring the motion to table opposed the amendment; those opposing the motion to table favored the amendment.

NOTE: After the vote, the amendment was filibustered by Democrats until substantial modifications were made to it, after which it was accepted by voice vote.

Those favoring the motion to table contended:

The FEC is the most politically sensitive agency of the Federal Government. Any of its actions can raise serious political, ideological, and constitutional questions. For it to have any appearance of objectivity, its powers must be evenly divided between the two parties. For that reason, by law, three of its commissioners are Republicans and three are Democrats. If there were any imbalance

(See other side)

YEAS (45)		NAYS (54)		NOT VOTING (1)	
Republicans (0 or 0%)	Democrats (45 or 100%)	Republicans (54 or 100%)	Democrats (0 or 0%)	Republicans (1)	Democrats (0)
Akaka	Johnson	Abraham	Hutchinson	Helms- ^{3AN}	
Baucus	Kennedy	Allard	Hutchison		
Biden	Kerrey	Ashcroft	Inhofe		
Bingaman	Kerry	Bennett	Jeffords		
Boxer	Kohl	Bond	Kempthorne		
Breaux	Landrieu	Brownback	Kyl		
Bryan	Lautenberg	Burns	Lott		
Bumpers	Leahy	Campbell	Lugar		
Byrd	Levin	Chafee	Mack		
Cleland	Lieberman	Coats	McCain		
Conrad	Mikulski	Cochran	McConnell		
Daschle	Moseley-Braun	Collins	Murkowski		
Dodd	Moynihan	Coverdell	Nickles		
Dorgan	Murray	Craig	Roberts		
Durbin	Reed	D'Amato	Roth		
Feingold	Reid	DeWine	Santorum		
Feinstein	Robb	Domenici	Sessions		
Ford	Rockefeller	Enzi	Shelby		
Glenn	Sarbanes	Faircloth	Smith, Bob		
Graham	Torricelli	Frist	Smith, Gordon		
Harkin	Wellstone	Gorton	Snowe		
Hollings	Wyden	Gramm	Specter		
Inouye		Grams	Stevens		
		Grassley	Thomas		
		Gregg	Thompson		
		Hagel	Thurmond		
		Hatch	Warner		

EXPLANATION OF ABSENCE

1—Official Business
2—Necessarily Absent
3—Illness
4—Other

SYMBOLS:
AY—Announced Yea
AN—Announced Nay
PY—Paired Yea
PN—Paired Nay

any actions the FEC took would appear to be, or would be, biased. Last year, Congress acted to increase the objectivity of the FEC by putting term limits of 6 years on FEC commissioners. If any commissioner had lifetime tenure, and his or her political views changed to support the other party, then the balance on the commission would be destroyed. By instituting term limits, Congress further safeguarded objectivity. The McConnell amendment would further advance that principle by requiring the staff director and the general counsel of the FEC to serve only 4-year terms. They could be reappointed, but only with the support of 4 FEC commissioners. That requirement would ensure that there would be at least some bipartisan support, if only one out of three members of one party, for a reappointment. The reason for this proposal is that the staff members of the FEC wield considerable power. They can pursue inquiries and make recommendations that can be bipartisan, or they can take actions that are blatantly partisan. Under present law, once they are appointed they have unlimited tenures unless 4 out of 6 commissioners vote to remove them. Thus, if a staff director or general counsel is appointed who turns out to be a rabid partisan, the three commissioners of the party that he or she favors will be able to keep him or her on the payroll and making decisions that benefit that party. Our Democratic colleagues tell us that this amendment is aimed at the current counsel for the FEC. They say that Republicans want to remove him from his post as punishment for his efforts to restrict so-called soft-money contributions in political campaigns. They then say that the current counsel has been a model of bipartisanship. In response, if he has really been a model of bipartisanship, than surely he will be able to pick up the support of at least one, if not all three, Republican FEC commissioners. We have not heard any concerns expressed by our colleagues about the staff director; is it that he has been bipartisan in both Republican and Democratic eyes? Republicans correctly know, beyond any doubt, that the FEC general counsel has made a blatantly political ruling on soft money that has been hotly debated in Congress for years. He did not have the statutory authority for his ruling. Regardless of any questions over whether the current general counsel is an objective civil servant or a partisan hack, the proposal to require the staff director and general counsel to have bipartisan support makes eminent sense. No knee-jerk votes after particular actions would occur--each vote would occur after a 4-year tenure, so each individual seeking reappointment would be judged on the totality of his or her record. A vote in favor of this amendment is a vote in favor of good government and honest elections; a vote against it is a vote in favor of a politicized FEC staff. We urge our Democratic colleagues to cast a vote in favor of good government, though we know full well that they will not.

Those opposing the motion to table contended:

This amendment is about nothing more than revenge. An honest civil servant, the general counsel for the FEC, has consistently done his best to enforce the election laws of the United States. He has done his job aggressively and well, and in the process he has angered many Members on both sides of the aisle. When he takes actions, he gets the approval of the FEC commissioners. To get a majority vote of those commissioners, bipartisan support is always required. Therefore, he has not taken actions, however controversial, that have not been supported by members of both parties. Nevertheless, our Republican colleagues are extremely angry because he has proposed restricting the soft-money political contributions that are polluting our political process. They have proposed this amendment, therefore, in an effort to get him fired. According to the Congressional Research Service, a few other directors and general counsels for government agencies are subject to Senate confirmation, but none of them are subject to term limits. Passing this amendment, therefore, would set a new precedent, and it would set it for purposes of revenge. We urge our Republican colleagues not to vote to fire a civil servant just for doing his job. We urge them to table this amendment.